

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GAILAND K. BREDE,)
Plaintiff,)
v.) No. 3:08-CV-464
AMERICAN SECURITY INSURANCE) (Phillips)
COMPANY,)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on Defendant's Motion to Stay [Doc. 14]. Defendant has moved to stay all deadlines contained in the Scheduling Order. [Id.]. Trial is currently scheduled for October 26, 2010.

As background, this case was removed to federal court on November 14, 2008 [Doc. 1]. On January 9, 2009, Defendant filed its answer to the complaint [Doc. 6]. On June 15, 2009, the Court entered a Scheduling Order [Doc. 9]. On January 14, 2010, Defendant filed its amended answer to assert a counter-claim [Doc. 14]. Plaintiff has not responded to the counter-claim.

Since the fall of 2009, counsel for Defendant has been unable to reach counsel for Plaintiff, Mr. Anthony M. Avery. In January 2010, defense counsel called the telephone number listed in the PACER electronic docketing system, and received a message indicating that the telephone number was disconnected. Defense counsel also sent letters to Mr. Avery in January and February 2010, but did not receive a response from Mr. Avery. One of the letters sent in February 2010 was returned with a note on the envelope stating, "Refused due to deployment to Iraq." In June 2010,

defense counsel learned that Mr. Avery is serving in the Tennessee National Guard 278th Division and has been deployed to Iraq. It is unknown when Mr. Avery will return.

For good cause stated, Defendant's Motion to Stay [Doc. 14] is **GRANTED**, whereby all proceedings are **STAYED UNTIL DECEMBER 1, 2010**. Because no discovery has been conducted yet, Defendant will not be prejudiced. All pending dates and deadlines, including the trial date, are hereby **VACATED**. Furthermore, the parties are **ORDERED** to provide a status update on December 1, 2010.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge